

Larry D. Bloomstein
Phone (212) 593-8059
Fax (212) 593-6970
ldbloomstein@arfdlaw.com

January 28, 2021

Via ECF

Judge Allyne R. Ross
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

RE: Leroy v. Mount Sinai, et al.
Docket: 20-cv-05325

Dear Judge Ross:

We represent the Mount Sinai defendants within this matter currently pending before the Court, which involves claims implicating the PREP Act. As the Court is aware, the parties are in the midst of briefing plaintiff's motion to remand and the defendants' opposition thereto. The defendants are scheduled to forward our respective briefs to plaintiff by January 29, and plaintiff, in turn, is to serve reply by February 5.

As the underlying claims involve plaintiff's medical care at both Brookdale Hospital Medical Center and Mount Sinai Hospital, the extent of that care during the COVID-19 pandemic, and the manner in which said care is encompassed by the PREP Act, both defense firms plan to reference various portions of our respective medical records within our briefs in opposition to the motion.¹ We also plan to annex as an exhibit to our briefs all or part of our respective medical records. As our legal argument is necessarily intertwined with the medical care rendered, we feel it is essential to provide the Court with the actual medical records to support our arguments.

We are mindful of the FRCP rule governing redaction, i.e., date of birth, social security number, etc. Furthermore, we are sensitive to plaintiff's privacy, despite plaintiff having waived that portion of her privacy pertaining to plaintiff's medical care by virtue of her having filed suit concerning her medical treatment. As such, we seek guidance from the Court's regarding its preference for the manner in which the medical records are filed in support of the motion.

¹ Both defendants recently requested from plaintiff, but have not yet received, a HIPPA authorization permitting each of us to obtain the other's medical records.

Prior to the submission of this letter, counsel for the Brookdale codefendants forwarded a proposed confidentiality stipulation to plaintiff's counsel to address this issue and to reasonably limit access to the medical records. The undersigned joined in that request, but plaintiff opted not to sign the agreement.

Therefore, we ask for the Court's guidance in advance of the filing of the motion on February 5, 2021. Please advise if the Court wishes for the medical records to be filed under seal or to be restricted to outside view in some other manner that the Court directs. We advise that we have consulted with counsel for the Brookdale defendants, and they respectfully join this request.

Yours, etc.,

AARONSON, RAPPAPORT, FEINSTEIN
& DEUTSCH, LLP

By: Larry D. Bloomstein
/s/ Larry D. Bloomstein (LB 0603)
(ldbloomstein@arfdlaw.com)
600 Third Avenue
New York, New York 10016
212-593-6700

Attorneys for Defendants

THE MOUNT SINAI HOSPITAL, s/h/a
MOUNT SINAI HOSPITAL, JILL
BERKIN, M.D., KEVIN TROY, M.D., and
HEATHER HUME, M.D.

cc: All parties via ECF